IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

(1) Mahila Mandal vs. State of Rajasthan & Ors.
(S.B.C.Writ Petition No.2473/06)

(2) Shri Digamber Jain Shiksha Samiti vs. State of Rajasthan & Ors.
(S.B.C.Writ Petition No.2474/06)

(3) Rajasthan Mahila Vidhyalaya vs. State of Rajasthan & Ors.
(S.B.C.Writ Petition No.2475/06)

Dated :- 25.10.2007

HON'BLE LMR.JUSTICE SANGEET LODHA

Mr. M.S.Singhvi, for the petitioners.
Mr. B.L.Tiwari, Dy.Government Advocate.

BY THE COURT

These writ petitions involve identical questions of law and facts , therefore, the same were heard together and are being disposed of by a common order.

In all the three petitions the respective petitioners have sought directions against the respondents to release the grant-in-aid to the petitioner, on arrear of salary paid to its employees as a result of revision of pay scales in accordance with Rajasthan Civil Services(Revised Pay Scales), Rules 1998, on arrears of dearness allowance paid to its employees as a grant of additional installments of dearness allowance, on the amount of selection

grades and leave encashment payable to the employees, alongwith interest @ 12% p.a. from the date the amount has been withheld till the date of the payment.

The petitioners societies registered under the Societies Registration Act, 1956 have established educational institutions at Udaipur. The educational institutions established by the societies having recognition under the provisions of Rajasthan Non Government Educational Institutions Act, 1989(in short " the Act of 1989" hereinafter) are receiving aid from the State Government to the extent of a certain percentage of the approved expenditure. In exercise of the power conferred by Section 43 of Act of 1989 , the State Government framed the Rules regulating the recognition grant-in-aid and service conditions etc. of the Non- Governmental Educational Institutions viz. The Rajasthan Non Government Educational Institutions (Recognition, Grant in aid and Service Conditions etc.), Rules, 1993(in short "the Rules of 1993" hereinafter).

The criteria and condition for grant-in- aid to the Non-Government Educational Institutions has been laid down in Chapter III of the Rules of 1993 and the Schedule appended thereto.

As per the provisions of Section 29 of the Act of 1989 , the scales of the pay and allowance except compensatory allowance with respect to employees of an aided institution shall not be

less than those prescribed for the staff belonging to similar categories in Government Institutions .

On the basis of these provisions, the petitioners claims that they are entitled for the relief claimed for. Learned counsel for the petitioner submits that as a matter of fact the questions involved in the matter are no more res integra . The learned counsel submits that in a litigation regarding grant of selection grade after considering the relevant provisions of the Act of 1989 and the Rules of 1993 thread bare, it has already been held by the Full Bench of this Court in the case of S.R.Higher Secondary School & Anr. vs. Rajasthan Non- Governmental Educational Institution Tribunal, Jaipur & Ors. 2002 (3) WLC (Raj.)586 that the employees of the Non- Governmental Educational Institutions receiving aid under the Rules of 1993 are entitled to benefit of selection grades as admissible to the employees of the State Government on completion of 9 years, 18 years and 27 years of service. The learned counsel submitted that in the self same decision, it was also held that the employees of Non-Governmental Educational Institutions are entitled to benefit of leave encashment at par with the employees of the State Government. It was further held that the aid is admissible on the amount of selection grade and leave encashment payable to the employees of the Non- Governmental Educational Institutions.The learned counsel pointed out that the said

decision of this Court stands affirmed by Hon'ble Supreme Court. This position of law settled as aforesaid, is not disputed by the learned Dy.Government Advocate appearing on behalf of the respondents.

In this view of the matter, the writ petitions deserve to be allowed in terms of the Full Bench decision of this Court(supra).

Accordingly, the writ petitions are hereby allowed .The respondents are directed to accord approval and release the grant in aid to the petitioners

(1) on the arrears of salary paid by it to its employees as a result of revisions of pay scales in accordance with the Rajasthan Civil Services(Revised Pay Scales) Rules, 1998;
(2) on arrear of dearness allowance to its employees as a result of grant of additional installments of dearness allowance;
(3) on the amount of selection grades admissible to the employees under order dated 25.1.1992 issued by the State Government prescribing for grant of selection grade
(4) on leave encashment for which the employees are entitled at par with employees of the State Government.

The entire exercise for grant of approval and release of the grant-in-aid may be completed within a period of three months from the date of the petitioners societies submitting their claim in accordance with the provisions Rules of 1993.

No order as to costs.

(SANGEET LODHA),J.